Organisation of working time to cover sectors and activities excluded from Directive 93/104/EC

1998/0318(COD) - 12/07/1999 - Council position

The Council's common position follows the Commission's proposal fairly closely except in three important respects: 1) The transitional provisions in respect of doctors in training. In its proposal, the Commission had made provision for a transitional period of seven years from the date of adoption, during which the number of weekly working hours would on average be 48, with a maximum number of 54 hours per week over a four-year reference period, subject to an agreement between the two sides of industry. The common position provides for a three stage transitional period, with maxima of 60, 56 and 52 hours, over nine years. This is in addition to a four-year implementation period, i.e. a total of 13 years. Furthermore, the common position contains an obligation for the employer to consult the representatives of employees with a view to reaching agreement. It also provides for a reference period of up to 12 months in the first part of the transitional period and up to 6 months thereafter. 2) The adoption of specific provisions in respect to seafishermen. The Commission proposed that mobile workers in sea fishing would have a guarantee of adequate rest and a limit on the maximum hours to be worked annually. Except in the case of share-fishermen, they would also be covered by the Directive's provisions on 4 weeks' paid annual leave and certain basic provisions for night workers and shift workers, including health assessments. In addition, the Commission intended to make a separate specific proposal for a Directive on the working time and rest periods of sea-fishermen (as well as arrangements for paid leave for share-fishermen). The Council has taken a different approach. It has introduced a new Article (17B) containing minimum provisions in respect of these workers. These include a provision for adequate rest and provisions adapted from the seafarers' agreement regarding minimum hours of rest or maximum hours of work to sea-fishermen. Similar possibilities for exception are allowed. These provisions are to be reviewed not later than nine years from the date of adoption of the Directive (Article 2A of the amending Directive). The Council also agreed to apply the annual leave provisions of Directive 93/104/EC to 'share-fishermen', who are employees, while underlining that it is for Member States to determine, pursuant to Art. 7 of that Directive, the conditions for entitlement to, and granting of such leave, including the arrangements for payments. The Directive does not apply to self-employed workers. 3) The implementation period : the Council agreed a four-year implementation period, instead of the two years proposed by the Commission. The Council made a number of other detailed changes which concern the definitions of 'adequate rest' and 'offshore work', a clarification of Art. 14 (more specific Community provisions) and changes to the derogations, including clarification that derogations from the provisions relating to adequate rest can be allowed in case of 'force majeure', etc.